

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GOMEZ WARREN, III,

No. C 12-02801 YGR (PR)

Petitioner,

**ORDER DENYING PETITION FOR A  
WRIT OF HABEAS CORPUS; AND  
DENYING CERTIFICATE OF  
APPEALABILITY**

vs.

RANDY GROUNDS, Warden,

Respondent.

Petitioner has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 claiming that his constitutional rights were violated in connection with a decision by the California Board of Parole Hearings (Board) in 2010 denying him parole. Petitioner specifically claims that the decision does not comport with due process because it is not supported by "some evidence" demonstrating that he poses a current unreasonable threat to the public.

A prisoner subject to California's parole statute receives adequate process when he is allowed an opportunity to be heard and is provided with a statement of the reasons why parole was denied. *Swarthout v. Cooke*, 131 S. Ct. 859, 862 (2011). The allegations in the petition show Petitioner received at least this amount of process. The Constitution does not require more. *Id.*

Whether the Board's decision was supported by some evidence of current dangerousness is irrelevant in federal habeas. The Supreme Court has made clear that "it is no federal concern . . . whether California's 'some evidence' rule of judicial review (a procedure beyond what the Constitution demands) was correctly applied." *Id.* at 863.

For the foregoing reasons, the petition for a writ of habeas corpus is DENIED. Pursuant to Rule 11 of the Rules Governing Section 2254 Cases, a certificate of appealability under 28 U.S.C. § 2253(c) is DENIED because it cannot be said that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Petitioner may seek a certificate of appealability from the Ninth Circuit Court of Appeals.

Petitioner's application to proceed *in forma pauperis* is GRANTED.

1 The Clerk of the Court shall enter judgment in favor of Respondent, terminate all pending  
2 motions, and close the file.

3 IT IS SO ORDERED.

4 DATED: July 10, 2012



YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE